

Supreme Court of Kentucky

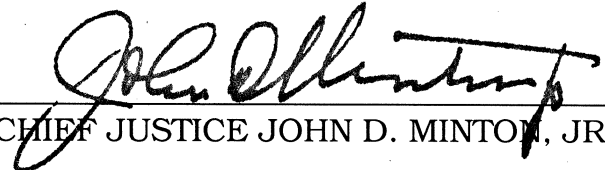
ORDER

**IN RE: ORDER APPROVING THE LOCAL RULES OF PRACTICE AND
PROCEDURE FOR THE 34TH JUDICIAL DISTRICT COURT,
McCREARY AND WHITLEY COUNTIES**

Upon recommendation of the Judges of the 34th Judicial District, and
being otherwise sufficiently advised,

The Local Rules of Practice and Procedure for the 34th Judicial District,
McCreary and Whitley Counties, are hereby approved. This order shall be
effective as of the date of this Order, and shall remain in effect until further
orders of this Court.

Entered this the 13th day of April 2012.


CHIEF JUSTICE JOHN D. MINTON, JR.

**COMMONWEALTH OF KENTUCKY
34TH JUDICIAL DISTRICT
WHITLEY DISTRICT COURT
McCREARY DISTRICT COURT**

LOCAL RULES

RULE 1. INTRODUCTION/ADMINISTRATIVE PROCEDURE

101. Introduction/Preface

The following Local Rules are adopted in order to promote and facilitate the fair and efficient administration of justice in the courts of the 34th Judicial Circuit, Whitley and McCreary District Courts. These rules are designed to inform the public as to how the court system operates, to assist the practitioner in the presentation of cases, and to generally enhance the dignity of and respect for the local court system. All previous rules adopted by the Whitley and McCreary District Courts are rescinded.

102. Effective Date

The effective date of these rules shall be the date of Supreme Court approval.

103. Citation

These rules may be cited as the District Court Rules of Procedure and Practice or by the abbreviation DCRPP.

104. Assignment of Cases

Cases are assigned on a rotation basis between the two district judges.

105. Holidays

The Court observes the AOC holiday schedule. That schedule is available in the District Court Clerks' offices.

RULE 2. COURT SCHEDULING/MOTION HOUR/PROCEDURES FOR FILING

201. Regular Court Schedule

Whitley District Court – Williamsburg Docket

Mondays 9 a.m. Preliminary hearings and pretrial conferences
1 p.m. Arraignments

Tuesday 9 a.m. Juvenile Docket
1 p.m. Domestic Violence, civil, small claims, probate, and show
cause/payment review

Wednesday (1st Wednesday of the month) 9 a.m. Trials

Wednesday (4th Wednesday of the month) 9 a.m. Pretrial conferences

Thursday 1 p.m. Video jail arraignments

Whitley District Court - Corbin Docket

Mondays 9 a.m. Domestic Violence, civil, small claims, probate, and show
cause/payment review

1 p.m. Juvenile Docket

Tuesday 9 a.m. Arraignments
1 p.m. Preliminary hearings and Pretrial conferences

Wednesday (2nd Wednesday of the month) 9 a.m. Pretrial conferences

Wednesday (3rd Wednesday of the month) Trials

McCreary District Court

Wednesday (1st, 3rd, and 4th of the month) 9 a.m. Trials

Wednesday (2nd of the month) 9 a.m. Civil, small claims and probate

Thursday 9 a.m. Arraignments, show cause/payment review
11 a.m. Domestic Violence

Friday 9 a.m. Juvenile docket

202. Exceptions to Regular Schedule

Emergency Custody Hearings and Probate Hearings shall be scheduled on other court days
as needed.

203. Deadlines for Serving and Filing Motions

Motions must be filed and served no later than five days prior to the day of the scheduled hearing, unless a different time is required by other rules of court.

RULE 3. DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY

See Appendix A which is attached hereto and incorporated herein as if set out in full for the Protocol adopted by both Circuit and District Courts.

RULE 4. PATERNITY

There is no local rule regarding this subject. See Family Court Rule of Procedure and Practice (FCRPP) 14 and 15 for uniform statewide rules of procedure.

RULE 5. DEPENDENCY NEGLECT AND ABUSE

501. Procedure for Emergency Custody Orders

During normal business hours, a person, including a state social worker, seeking emergency custody shall file the petition with the appropriate District Court Clerk's Office. The Clerk shall refer the petition to a District Judge, or in McCreary County to the Trial Commissioner if no District Judge is available.

After normal business hours, a person seeking emergency custody shall obtain the form and file the petition at the 911 Dispatch Center. The petition shall be forwarded to the District Judge on call.

If emergency custody is granted, a temporary removal hearing shall be scheduled within 72 hours, regardless of the regular time for hearing juvenile cases.

RULE 6. STATUS OFFENSES/PUBLIC OFFENSES

601. The Juvenile Division of the Whitley District Court has adopted the present Reclaiming Futures model. The purpose of this model is to screen and assess each child that comes into court with a status or public offense to determine if the juvenile has a substance abuse issue. If the child does have a substance abuse problem, then the juvenile will be referred to the Reclaiming Futures Treatment Program, which is a 9-12 month program. Protocol and Procedure

for this program will be made available to the juvenile and the juvenile's parent, custodian, or guardian upon acceptance into that program. In McCreary District Court, a similar program is also in place, but it is called the McCreary County School System Treatment Program.

RULE 7. MISCELLANEOUS RULES RELATING TO FAMILY LAW PRACTICE

There are no miscellaneous rules.

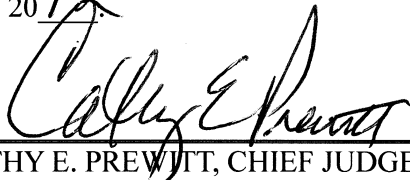
RULE 8. CIVIL/CRIMINAL PRACTICE RULES

801. A party seeking a default judgment shall file a written motion with service on the defendant(s) indicating the time and place of the hearing. If a party who seeks default judgment is represented by an attorney, then appearance by counsel is mandatory.

802. The Court will not, except for good cause shown, release any person that has been incarcerated until the Pretrial Release Officer has interviewed that person and made recommendations to the Court.

803. If a defendant in a criminal case fails to appear at a scheduled court hearing and wishes to be placed back on the docket to address a bench warrant or a DOT failure to appear notice, the defendant shall file a written motion with the district clerk's office to be placed back on the docket of the judge issuing the warrant or notice.

Dated this 24th day of Apr. 1, 2012.


CATHY E. PREWITT, CHIEF JUDGE
DIVISION I


FRED WHITE, JUDGE
DIVISION II

Appendix A

TWENTY-FOUR HOUR ACCESSIBILITY TO EMERGENCY PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION DOMESTIC VIOLENCE PROTOCOL 34TH JUDICIAL CIRCUIT AND DISTRICT WHITLEY AND McCREARY COUNTIES

Pursuant to KRS 403.735 and in compliance with Family Court Rules of Procedure and Practice (FCRPP) Section IV, this local domestic violence protocol is established to ensure twenty-four hour accessibility to emergency protective orders and to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the circuit and district courts.

I. Uniform Protocol for Processing Cases

A. Circuit court clerks shall process domestic violence cases in accordance with the procedures set forth in the “Domestic Violence Proceedings” section of the Kentucky Circuit Court Clerk's Manual.

B. All cases will be assigned a “D” case number with the appropriate trailer number within the court case management system and may not be consolidated with any other case type.

C. Domestic violence matters may be reassigned from the District Court to Circuit Court when there is a dissolution/custody proceeding pending.

D. This jurisdiction does not have a “no-drop” policy. Domestic violence cases are civil matters within the purview of CR 41.01.

E. Domestic violence cases shall be reassigned or transferred to another circuit when it is learned that there is a pending dissolution or custody matter in that other circuit. See FCRPP 12.

II. Twenty-four Hour Accessibility

A. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner during regular business hours:

Court Clerk and Deputy Court Clerks; the County Attorney and authorized staff.

B. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner after regular business hours and weekends:

Deputy Court Clerk who is specifically assigned this responsibility by the Clerk. Petitioner may go to the 911 Dispatch Center or any law enforcement officer for referral to that Deputy.

C. Upon receipt of a petition during regular business hours, the authorized agency/officer shall present the petition to the following:

Any District Judge that is available. If no District Judge is available, then referral shall be made to any Circuit Judge. In McCreary County, if no District Judge is available, the petition shall be presented to the Trial Commissioner. If neither the District Judge nor the Trial Commissioner is available in McCreary County, then the petition shall be presented to a Circuit Judge.

D. Upon receipt of a petition after regular business hours, **the authorized agency/officer, or 911 Dispatch, shall present the petition to the District Judge on call.**

E. Petitions will be reviewed within an hour of presentation to a judge or trial commissioner unless it is impossible due to the unavailability of a judge or trial commissioner.

F. The schedule for domestic violence hearings is as follows:

Whitley District Court - Williamsburg: Tuesdays at 1 p.m.

Whitley District Court - Corbin: Mondays at 9 a.m.

McCreary District Court: Thursdays at 11 a.m.

If a domestic violence case is transferred to Circuit Court, then that court shall set a date and time for hearing with notice to all parties involved.

III. CONTEMPT PROCEEDINGS

A. Pursuant to KRS 403.760, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.

B. Petitioners seeking to initiate contempt proceedings **should contact the Court Clerk during regular business hours, or if it is after regular business hours, the petitioner should refer to II B above.**

C. No petitioner may be held in contempt for failing to appear at a domestic violence hearing or to prosecute a criminal violation of a protective order.

All general orders, forms, policies and procedures relating to domestic violence are available in the court clerk's office.

The above protocol is adopted by all judges in the Circuit/District.



/Date 28 March 2012

DAN BALLOU, CHIEF JUDGE
34TH CIRCUIT COURT
DIVISION I



/Date 3-27-2012

PAUL K. WINCHESTER, JUDGE
34TH CIRCUIT COURT
DIVISION II



/Date 4-9-12

CATHY E. PREWITT, CHIEF JUDGE
34TH DISTRICT COURT
DIVISION I



/Date 4-9-12

FRED WHITE, JUDGE
34TH DISTRICT COURT
DIVISION II